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REPORTS

NOTES OF THE WEEK

Out-of-Date Penalties

Dealing with offences of permitting disorderly conduct and of allowing prostitutes to assemble, in an unregistered club, the learned magistrate at Marlborough Street magistrates' court fined the defendant £20 in all, remarking that £5 was the maximum penalty for each offence under the statute, which had not been altered since 1839.

From the newspaper report it would appear that the proceedings were under s. 44 of the Metropolitan Police Act, 1839. At that time £5 was a considerable sum, and must have represented the wages of many a man for five or more weeks, and even the salary for one or more weeks of some professional men. Today even an unskilled worker reckons £5 as no sort of weekly wage.

With the change in the purchasing power of money and increased incomes there has come a demand from time to time that penalties generally should be correspondingly raised. It is not a simple matter. One suggestion is that maximum penalties prescribed by statutes passed between certain dates should all be raised by multiplying them by a figure which will make penalties today relate to incomes to the same extent as they did when they were first prescribed. That would be open to some obvious objections. Perhaps the most practical line of approach is for magistrates and others interested to note specific examples of what they consider out-of-date maximum penalties and to pass on their opinions through what they think the most suitable channels. Opportunity may arise some day of revising some at least of the maxima prescribed before the value of money began to change markedly.

Corporations and Intent to Defraud

Since a corporate body such as a limited company is a fictitious person and must act through real persons, it might be thought that a company could not form an intention to defraud. The law has been settled otherwise, and this is no doubt an advantage.

At the Glamorgan Assizes at Swansea, a limited company was fined £10,000 for its part in a conspiracy against the Air Ministry, to cheat and defraud them by false pretences in connexion with payments to be made under a contract for the resurfacing of roads and runways. Two officials of the company were sent to prison. Subject to certain exceptions, a limited company can, as a general rule, be indicted for the criminal act of those in control of the company, and for this purpose there is no distinction between an intention or function of the mind and any other form of activity, *Archbold's Criminal Pleading*, 33rd edn., p. 12, citing *D.P.P.* v. *Kent and Sussex Contractors, Ltd.* (1944) 108 J.P. 1; *R.* v. *I.C.R. Haulage Co., Ltd.* [1944] 1 All E.R. 691; 108 J.P. 181.

Guardianship and Access

The possibly adverse effect upon the children of parents who are divorced or separated of spending most of their time with one parent and some with the other have been the subject of comment in the courts. One aspect of the matter was illustrated in the Court of Appeal when there was a question of access in relation to a boy at boarding school. It was pointed out that other boys would be likely to comment on the fact that a boy's parents didn't come together to see him, but one on one day and the other on another day.

Such comments by school-fellows may be hurtful to a sensitive boy or girl, and yet it is easy to understand the desire of both father and mother to keep in touch with their child. In deciding questions of access magistrates will have most regard to what is best for the child, even if their decision may be painful to one of the parents. These questions bring out clearly the fact that divorce and separation must inevitably cause some disturbance in the lives of the children.

When " Hearsay " is not Hearsay

An appeal was brought from the Supreme Court of the Federation of Malaya (Court of Appeal) to the Judicial Committee of the Privy Council on a question of the admissibility of evidence. The case was that of *Subramaniam and the Public Prosecutor* (1956) 1 W.L.R. 965. The appellant was tried on a charge of being in possession of ammunition, contrary to one of the Emergency Regulations in force in Malaya, and in trying to prove that he was acting under

duress he sought to give in evidence, in describing his capture by terrorists, what the terrorists had said to him. The trial judge ruled that what the terrorists said to him was not admissible unless they were called. An appeal to the Court of Appeal of the Supreme Court of Malaya was unsuccessful, and they gave leave for the appeal to the Judicial Committee.

It was there held that the appeal should be allowed, and we quote now from their Lordships' reasons for allowing the appeal. "In ruling out peremptorily the evidence of conversation between the terrorists and the appellant the trial Judge was in error. Evidence of a statement made to a witness who is not himself called as a witness may or may not be hearsay. It is hearsay and inadmissible when the object of the evidence is to establish the truth of what is contained in the statement. It is not hearsay and is admissible when it is proposed to establish by the evidence, not the truth of the statement, but the fact that it was made. The fact that the statement was made, quite apart from its truth, is frequently relevant in considering the mental state and conduct thereafter of the witness or of some other person in whose presence the statement was made."

The basis of the decision seems to be that the statements in question were a part of the *res gestae*, described in *Taylor on Evidence* as "an incident of the event under consideration." A court has to be careful, in receiving such evidence, to keep clearly in mind that, unless there is proof from other witnesses, the truth of the matters referred to in the statements has not been established.

The Late Mr. Derek Curtis-Bennett, Q.C.

The premature death of Mr. Derek Curtis-Bennett, Q.C., under tragic circumstances has been widely noticed elsewhere but we would like to add our tribute to an eminent criminal advocate. Curtis-Bennett bore a name which had been made famous not only by his father, who was Chairman of London Sessions, but by his grandfather who was Chief Metropolitan Magistrate. Born on February 29, 1904, he was educated at Radley and Trinity College, Cambridge, and called to the bar by the Middle Temple in 1926. He rapidly acquired a practice, taking silk in 1943, the year after he had been appointed Recorder of Guildford.

In a sense the distinguished forensic name to which he was kin was a disadvantage as well as an advantage. It tended to give Curtis-Bennett a feeling of inferiority and he was constantly reproaching himself for falling below the high standards of his father and grandfather. That his self-criticism was quite unfounded is shown by the impressive list of cases in which he participated as an advocate. He defended stoutly "Lord Haw-Haw" (William Joyce who was sentenced to death at the Old Bailey in 1945), his conduct of this case made a profound impression at the time. Amongst his other causes celèbres were "the chalk-pit murder," the Christie case and "the Pottery case" which lasted for 41 days at the Old Bailey. He also defended against a charge of murder Sergeant Emmett-Dunne and the details of this unusual case in Germany are still fresh in the public mind.

He was a severe task-master to himself in all he did and more than worthily upheld the great traditions of his famous forensic family.

Custom of the Trade

Our note at p. 451, *ante*, has produced an interesting letter from a learned correspondent. He recalls that, when he was a boy living in the Midlands, if a man applied for a post of driver for the local brewery company he had to produce clear evidence that he was a total abstainer. As our correspondent says, there were no doubt several reasons for this, but the safety of traffic was certainly one of them.

That seems an excellent rule, but it may be more difficult to get people to agree to it nowadays. Short of this, it is desirable that such drivers should agree not to accept intoxicating drinks while on their rounds. No drink during working hours is a good practice for drivers to follow.

Frauds on Post Office

The learned stipendiary magistrate at Llantrisant is reported as attributing "gross carelessness" to Post Office authorities in connexion with the withdrawal of moneys from a savings bank account on forged signatures. Before him was a woman who admitted obtaining various sums by means of forged signatures, the total being alleged to be £465. The defendant was said to have forged her husband's signature, and the magistrate commented that comparison showed the difference at a glance. The woman was placed on probation.

The fact that it is easy to commit an offence and remain undetected is no justification for repeating it, but it often leads to repetition, and obviously it is to be expected that all possible steps will be taken to prevent them from being committed. Police are constantly urging the public to take precautions to safeguard their own property, and the principle applies to everyone who is in possession of other people's property for the purpose of dealing with it.

Although the Post Office officials came in for criticism in this instance for carelessness, we could cite instances of commendable care, where, because a depositor's handwriting had changed over a period of years, inquiry was made and steps were taken to verify the genuineness of a signature. One reason for mistakes in Post Offices may be the multifarious duties counter clerks are required to perform nowadays, which must sometimes lead to hurry with a possible failure to take all possible steps to prevent fraud.

Safety for Children, instead of Comics

The *Newcastle Journal* of July 21 reports what seems to be a good suggestion made by the South Shields Road Safety Committee that parents should make a donation to help to publish a road safety book instead of buying comics for their children. The idea was that the publication should be bought by parents (its price is one shilling) instead of the weekly comic. It was also agreed that copies should be sent to the local education authority with a suggestion that they should obtain supplies for the town's infants schools.

If parents could be persuaded to buy the book for their children to read it is probable that they might also read it themselves and so be able to emphasize to their children the lessons the book seeks to teach. Incidentally, some of the lessons might also be of benefit to the parents. The ever increasing casualties on the roads make it very apparent that there are still a great many lessons to be learned by road users of all categories.

Full Confession as Mitigation

We have heard it said, though we hope it is not true, that it may pay a defendant, who has only a very slight chance of avoiding conviction, to plead guilty rather than to contest the case and be found guilty because the penalty may be increased in order to teach him not to give so much trouble on another occasion, or to give a broad hint to other defendants waiting for their cases to be heard. As we have said we hope that such a suggestion could never have any foundation in fact. On the other hand, we see no reason why in some circumstances full confession of having committed an offence, with no attempt to excuse it, may not be treated as a

mitigating circumstance or, it would be perhaps more correct to say, as a reason for imposing a smaller penalty than would otherwise have been deemed appropriate.

We have a report from the Brighton *Evening Argus*, of a case in which a defendant was summoned for careless driving. The report states that he pleaded guilty and that he said to the police officer in the case, "I am the culprit. There is no other explanation other than that my attention was distracted." This is the sort of case we have in mind. The other circumstances of the case must be borne fully in mind in assessing the penalty, but we think that the court can properly take the view that he is a man who, although he drove carelessly on this occasion, recognizes fully that he did so and is likely, therefore, to have learned his lesson and not to do such a thing again. They do not need, in these circumstances, to add to their penalty in order to try to impress upon him that he must not commit any further similar offence.

In the case in question the defendant was fined £5, with 15*s.* costs. We are not seeking to comment in any way on this penalty, but merely to use the case to illustrate our point.

Road Races for Cyclists

We read in the *Manchester Guardian* a report of the unsuccessful prosecution of one of a group of cyclists who were taking part in a 70 mile massed start road race in Leicestershire. We make no comment on this particular case because 19 summonses against other cyclists, concerned with the same occasion, stand adjourned *sine die*, but we note that the report records that evidence was given by a policeman who followed a group of cyclists for eight miles in a police car. He stated that they had passed through villages at speeds ranging from 25 to 43 miles per hour, overtaken a shooting brake on a bend, forced a learner driver onto the grass verge, overtaken on the brow of a hill and cut several corners at speed.

Section 13 of the Road Traffic Act, 1930, provides a maximum penalty of three months' imprisonment, and/or a fine of £50, with compulsory disqualification for 12 months in the absence of special reasons, for any person who promotes or takes part in a race or trial of speed between motor vehicles on a public highway. Motor vehicles include motor assisted cycles, but the pedal cycle is, at present, right outside any such provision. There is, however, in the new Road Traffic Act a section (by a strange coincidence it is s. 13) to provide for the regulation of cycle racing on highways. Surely in these days when everyone is clamouring for more effective means of reducing the number of road accidents and casualties the sensible thing would have been to prohibit road racing on pedal cycles in the same way that road racing or motor assisted cycles is forbidden. Instead we are to have authorized road cycle races conducted in accordance with conditions imposed by or under regulations under the new section. Chief officers of police are to have powers to give directions to other traffic, which wishes to use the roads for proper purposes, as to the direction it is to follow, and so on, "to prevent or mitigate congestion or obstruction of traffic or danger to or from traffic in consequence of the holding of a race or trial of speed authorized by or under regulations under this section." Why should anyone be allowed to organize a race so that other road users, in the absence of special directions which may cause them serious inconvenience, may be obstructed or put into danger? There are tracks where cycle racing can properly take place without inconvenience to anyone; why allow our roads, which are inadequate for the traffic they have to carry, to be misused for this purpose?

Treatment Instead of Punishment

The prisoner was found Guilty. The articles alleged to have been stolen were two articles of underclothing, taken from a flat next to that which the prisoner occupied. In returning a verdict of Guilty the jury added that they were of opinion that the prisoner's mind was unbalanced. The learned Judge, in binding him over for three years after he had agreed to undergo medical treatment, observed that the prisoner had led a perfectly respectable life until 1953, when he had an accident.

Apart from this antecedent story it would have been difficult to account for such a strange piece of conduct by a perfectly respectable man. The explanation may indeed be that he is in need of medical advice and treatment.

Vis Inertiae Victrix

We shall speak later and in more detail about the proposals in the White Paper entitled *Area and Status of Local Authorities in England and Wales*, Cmd. 9831, which was published just too late for mention in these Notes last week. On first reading we do not find it an impressive document; it is on the lines which were to be expected from cautious preliminary statements. After the issue of rival suggestions in 1954, by the Association of Municipal Corporations on the one hand and the remaining local government associations on the other, the associations were brought together by the Minister of Housing and Local Government, and discussions took place between their representatives. Those discussions had to end either in failure to agree or in a compromise; and the White Paper now before us embodies the greatest common measure of agreement among associations—which naturally implies the minimum of change. The Local Government (Boundary Commission) Act, 1945, was alleged 11 years ago to be marred by undue complacency. Our own comment at 109 J.P.N. 172 was in less conventional language, although we welcomed the decision to take boundary matters out of the political field if it really had to be assumed that local government would go on with much the same structure as before. It is interesting, to say the best, to find the Government in 1956 following so closely what was proposed in 1945. The test is said to be whether local government in this country is capable of discharging efficiently the functions entrusted to it, while at the same time maintaining its "local democratic character." After using this phrase the White Paper goes on (with presumably unconscious humour) to propose maintaining two tier and one tier local government as now existing, but to provide for the one tier form in the shape of large boroughs to become more widespread which, as we pointed out in the course of indicating a possible remedy at 109 J.P.N. 423, means in typical cases depriving the population in added areas of the comparatively close contact with their elected representatives which can be maintained in a county district. The White Paper also proposes a fresh series of county reviews, arrived at securing "administrative units with adequate population and resources"—which again can only mean reducing the number of districts where councillors can keep in constant touch with their constituents. It seems to be taken as self-evident that management by whole-time officials, in accordance with policy controlled by caucuses, is an object to be sought, or at least an inevitable evolution. Inevitable it will be, if an electorate enlarged by adult suffrage (and therefore drilled of necessity by parties) finds its local government almost entirely working in the framework set up in 1888 when the electorate was narrow: that is, the county and the county borough, with no minor authorities inside the latter, and the minor authorities within the county artificially enlarged.

IS CONSENT TO SUMMARY TRIAL ALWAYS IRREVOCABLE?

At 120 J.P.N. 241 we published a short article under this heading and we said at the end of it that we thought the matter might be coming before the High Court for decision. We now understand that this is not now likely to happen, at any rate so far as the case which brought the matter to notice is concerned and we propose, therefore, to go a little more fully into the question.

In that earlier article we expressed the view that the consenting to summary trial, in the case of an indictable offence tried summarily by virtue of s. 19 (or s. 20) of the Magistrates Courts Act, 1952, was a part of the whole of the proceedings within the meaning of s. 98 (6) of that Act. But we understand that the considered opinion has been expressed that when a consent to summary trial has been taken under s. 19 or s. 20, *supra*, fresh proceedings then start, *i.e.*, the summary trial of the information, and that if the hearing of the case is subsequently adjourned the " whole of the proceedings " so far as any new bench before which the adjourned hearing comes means the summary trial of the information. The conclusion drawn from this is that there is no *requirement*, by virtue of s. 98 (6) of the Magistrates' Courts Act, 1952, that the new bench shall take a fresh consent, but that they are entitled to take a fresh consent (or to allow the defendant to withdraw his consent) if they think fit to do so because they, as the new bench, have not begun to try the information within the meaning of s. 24 of the Act and are not bound, therefore, by the prohibition in that section. In coming to this conclusion s. 124 (1) is considered and it is pointed out that the " court " is the justice or justices acting for the time being, and that, because of this, the fact that some other justices have begun to try a case summarily does not affect other justices who subsequently constitute the court and who have not so begun summary trial.

Another point made is that unless the restricted meaning suggested above is given to the expression " the whole of the proceedings " in s. 98 (6) a single justice taking depositions would not be able to take advantage of the provisions of s. 19 or s. 20 of the Act. It is argued that this is so because the single justice who has taken depositions must, before proceeding with the summary trial, be joined by another justice or justices who would not have been present when the depositions were taken and who would not therefore have been present during the " whole of the proceedings " if the larger meaning is given to those words.

We hope we are doing justice to this argument because we wish to submit that it is not a sound one. Accept for the time being that the " whole of the proceedings " in the case of a man charged with an indictable offence means starting from the very beginning, having no regard to anything which may have been done before a differently constituted court. We argue in the first instance that this larger meaning is the more natural meaning of the words. A particular bench of justices have before them, for the first time, a defendant charged with an indictable offence. Section 19 (2) of the Magistrates' Courts Act requires the court before whom a person aged 17 or over appears charged with an indictable offence to consider representations made by the parties, to have regard to the nature of the case, to its powers of punishment and to the gravity of offence and only when it has done all this to proceed with a view to summary trial. Now these are matters on which, in a particular case, different magistrates may well have different views and may, therefore, come to different conclusions. Why, unless it is clearly necessary to do so, should the words " the whole of the proceedings " in s. 98 (6) be so interpreted that bench " A " is bound by or even allowed to accept the decision of bench " B " on this matter which is vital to conferring jurisdiction to try the case summarily.

Let us consider, from this point of view, the single justice we have previously referred to. He is not competent, by virtue of s. 98 (1) of the Act, to try the case summarily, but he comes to the conclusion, in pursuance of s. 19 (2) that it is a case which a properly constituted court might properly try summarily. It is quite true that, if the larger meaning be given to the words in s. 98 (6), the single justice's decision on the question of summary trial may not be effective, but why should it be unless his colleagues who have to join him before the case can be tried summarily are agreed that they ought to try it summarily? Why should justices B and C reluctantly and against their better judgment be bound by justice A's decision on this vital matter? We go further and ask whether it can be legally correct that they can allow themselves to be so bound. And if the answer is, well if they don't agree they can refuse to start the summary trial what happens if the defendant says that he has consented to summary trial and he insists on being tried summarily? The answer to this is, presumably, that as the new bench have not begun to try the case summarily they may go back on the previous decision, s. 24 of the Act not then being operative. If this is so what becomes of the argument that the disputed words in s. 98 (6) must be given the restricted meaning we have mentioned in order that a single justice may avail himself of the provisions of s. 19 and s. 20.

We do not suggest that the matter is free from doubt but we do feel strongly that, for the reasons we have given, the intention of s. 98 (6) is to require the magistrate or justices composing a magistrates' court which proposes to try summarily an indictable offence to satisfy himself or themselves that the conditions precedent to summary trial have been fulfilled. This creates no difficulty other than the one discussed in our former article, *i.e.*, that a defendant who has agreed to summary trial by one bench gets the opportunity to withdraw his consent when he comes before another bench and that this may appear not to fulfil the intention of s. 24 of the 1952 Act. Where a single justice has taken depositions and has then, in pursuance of s. 19, taken a defendant's consent to summary trial and has adjourned the hearing for the court to be fully constituted for the summary trial that court, if the justices composing it agree, need not take any depositions unless they wish to do so because they may " proceed with a view to summary trial " at any time during the inquiry into the indictable offence.

We have discussed here the two views of the meaning of " the whole of the proceedings " in s. 98 (6). Whichever of those views is accepted the newly composed court which takes over the hearing is free to take a fresh consent to summary trial, but the defendant's position varies according to which interpretation is correct. If the larger meaning is accepted the defendant has the *right* to elect again before the new bench. If the restricted meaning is correct the defendant can apply to make a fresh election, but the decision rests with the court.

We can find nothing to support the view that s. 24 overrides s. 98 (6), *i.e.*, that the fact that a particular bench of justices has started to try a case summarily prevents another bench from considering that question at all, and we do not think for the reasons which we gave in the former article that s. 98 (6) can be read as *compelling* a particular bench of justices to attend to continue the hearing.

RECORDED VOTES AT COUNCIL MEETINGS

By PHILIP J. CONRAD, F.C.I.S., D.P.A. (Lond.), D.M.A.

The Local Government Act, 1933, deals in sch. 3 with the meetings and proceedings of local authorities. Part III, para. 6, provides that the mode of voting at meetings of urban and rural district councils shall be by show of hands, and on the requisition of any member of the council the voting on any question shall be recorded, so as to show whether each member present and voting gave his vote for or against that question. Part IV, para. 5, enacts a similar provision affecting meetings of parish councils. There is no obligation to record the names of those abstaining, although in many cases this is done. It has the advantage of accounting for all present at the meeting, subject to the possibility that someone included in the attendance list may have left the meeting before a requisition for a recorded vote was made.

Parts I and II do not contain any similar provision in respect of meetings of county councils and borough councils, but model standing order 14 issued from the Ministry of Housing and Local Government states that every question shall be determined by show of hands, and on the requisition of any member, supported by . . . other members who signify their support by rising in their places, the voting on any question shall be so recorded. A footnote points out that for district and parish councils this is dealt with by sch. 3 to the Act of 1933, and they should therefore omit this standing order. The distinction between the statutory requirement and the standing order is apparent—in the one case, a single councillor can demand a recorded vote whilst in the other a specified number of aldermen and/or councillors have to be prepared to support the requisitioning member. Moreover, failure to comply with a requisition to record voting at urban and rural district council meetings would be contrary to statute, which is more serious than non-compliance with standing orders which, apart from statute law incorporated, represent a code of behaviour agreed to be observed by the council adopting them.

A recorded vote is unheard of at the meetings of many parish and district councils, but where, *inter alia*, personal feelings run high, or political considerations prevail, it may be a frequent feature, and one which raises some points of interpretation worth discussing.

First, the question arises whether a statutory recorded vote can be requisitioned at a committee meeting as well as at a council meeting. Section 75 of the Local Government Act, 1933, says that the provisions of parts I to V of sch. 3 shall have effect as respects . . . committees . . . Taking this literally, it means that all the provisions, without exception, are equally applicable to committees, but this does not seem to be a wholly satisfactory interpretation, because some of the provisions are in their nature inapplicable otherwise than to the full council. Since there are provisions in part V of sch. 3 which refer explicitly to committees, one interpretation of s. 75 would be *reddendo singula singulis*, so that s. 75 applied the schedule to committees only so far as they are specifically mentioned. Nevertheless, the Ministry of Housing and Local Government, in a letter to the clerk of a local authority, state that, subject to the accepted fact that the Minister is not empowered to interpret the law, he is inclined to think that, whilst it seems clear that not all the provisions of sch. 3 are applicable to committees, para. 6 of part III is so applicable. This is an interesting expression of opinion, which upholds the view that s. 75 of the Act of 1933 cannot be intended to mean that each and every provision of sch. 3 is to apply to committees. As an aside, we might pause here to reflect that, having conceded this hurdle of interpretation, one may wonder where to stop in applying sch. 3 to committees. The only distinct line which can be drawn is the one already mentioned, as between those provisions which are and those which are not expressly stated by the schedule itself to apply. This might be thought to render the provision in s. 75 superfluous.

Model standing order 41 does not apply standing order 14 to committees; therefore, in the case of county and borough councils, recorded votes cannot be requisitioned at committee meetings unless some provision has been added to the model to this end.

Secondly, it has not been unknown for a councillor to argue on the question of accuracy of minutes that, when a recorded vote was requisitioned on an amendment, this requisition continued to apply to the substantive proposition, and that the names of those voting should, therefore, have been recorded for the two separate shows of hands. This raises the question whether a separate requisition is required for each show of hands consequent on the putting of amendments, as well as the original or substantive proposition. A reasonable interpretation would be that a separate requisition must be made for each " question ", meaning each and every occasion on which a vote is taken; that a requisition for a recorded vote made at the beginning of the debate on any one matter cannot be said to apply to all the votes that may be taken during that debate. This view is supported in the before-mentioned letter to the clerk of a local authority from the Ministry of Housing and Local Government, in which the Minister said that he was inclined to the view, as advised, that the statutory provisions require that a separate requisition for a recorded vote must be made on each question, including a vote on an amendment.

The third and last question to be discussed here is the point in the proceedings of a meeting when the requisition for a recorded vote should be made. Can it be made after a vote has been taken by show of hands, or during the count of a show of hands, or must it be demanded before such a vote is taken ? Obviously, it is desirable for the good conduct of the meeting to give the chairman notice of the requisition immediately before the question is put or, at worst, at the moment the hands go up " for " the question. A requisition at any later stage must introduce an air of uncertainty into the proceedings, at the crucial time when the count is under way. As regards county councils and borough councils, the standing order herein could be enlarged to clarify this point, but district and parish councils are bound by the statute law. If a requisition is accepted after the result of a vote by show of hands has been declared, the complication may occur that the recorded vote produces a different result, by reason of a mistaken count of hands in the first instance or because second thoughts have prevailed within the short time that elapses, or because one or more who did not vote on the initial show of hands decide to do so when the hands go up again at the recorded vote stage. Although the chairman would be fully entitled to rule that the result of the recorded vote represented the governing decision of the council, objections and arguments might arise, which would embarrass any but the firmest chairman.

This is, however, looking at the matter from the practical point of view. The more important question is not what is desirable, but what is permitted by law. The purpose of the

recorded vote, according to the statutory provision, is " . . . so as to show whether each member present and voting gave his vote for or against that question." Although it may not necessarily have been the intention of the legislature, the use of the word " gave " in the past tense could be regarded as implying that the requisition is expected to be made after the vote has been taken. It could equally be contended that a requisition must be made at that point of time when a record could be made of the way members are voting, namely by the time the members put up their hands as voting in favour.

On grounds of practicability, therefore, the best time to requisition is before the vote is taken, but on a strict interpretation of the law it appears that requisition could be made at or even after the initial show of hands, provided it was within the time during which the particular " question " was under discussion. Whilst, then, it is in the interest of the smooth running of the proceedings that in practice the requisition be voiced beforehand, a member of a parish or district council is entitled to stand by his right to do so at a later stage within the foregoing proviso.

THEATRICAL COURT CASES OF THE 18th CENTURY

By DENYS VAL BAKER

Colley Cibber was one of the great figures of the English stage in the eighteenth century, an actor-manager in the grand style: his son Theophilus, on the other hand, was what was known even in those bawdy days as a thoroughly bad lot—a drunkard, waster, adulterer, and a rather poor actor to boot. He did, however, achieve some sort of small immortality by being responsible for two amusing legal actions.

It happened like this. Theophilus had married a pretty young girl singer, Susanna Maria Arne (her brother, Thomas Augustine Arne, composed *God Save the King*, and *Rule Britannia*), and while his own fortunes had fared poorly, his wife's—under the skilled guidance of her father-in-law, who recognized her latent genius—had prospered. She had revealed an unexpected talent for great tragic acting, and in no time had become the star of Drury Lane.

Unfortunately for Theophilus his wife's success did not prevent his own disaster: he got more and more into debt, and neither gambling nor borrowing appeared likely to save him. From all accounts he had little interest in his young wife, but he did note that her prettiness and her success made her attractive to the gallants of the day, and in particular to the young and wealthy Mr. Sloper.

Theophilus seems to have encouraged his wife's friendship with Sloper, principally to enable him to borrow sums of money from the latter, with whom she sought solace when the menacing activities of bailiffs made it necessary for Theophilus to flee to France in 1738.

Now Theophilus hit on a new way, he hoped, of raising money. He returned to England, traced his wife's whereabouts, and attempted to seize her—only to be foiled by her brothers, a dramatic event which added more colour to the extravagant tales that, not surprisingly, soon circulated in London.

Here Theophilus played a new card. He began a legal action against Sloper for criminal conversation, charging the defendant with " Assaulting, Ravishing and Carnally Knowing Susanna Maria Cibber, the Plaintiff's Wife." The damages claimed were £5,000.

The case naturally caused a sensation, and a host of theatrical people were called to give evidence. It was heard at the King's Bench on December 5, 1738, before the Lord Chief Justice and a special jury. Here is the highly coloured evidence of one Stint, a candle-snuffer at Drury Lane, whom Theophilus had appointed to guard his wife:

" Mr. Thomas Arne, her brother, came there and he begged and prayed that I would let her go along with him but I would not break my trust; I could not do it. He came several times, and finding I would not do it began to break open the house, and at the same time bid her cry ' murder.' She cried out ' murder ' and I believe there was a hundred of a mob assisting him to break open the house. I had a case of pistols and laid my back against the door, but they were too strong for me and took my pistols out of each hand and held me fast by each arm, and beat me severely and tore all the clothes off my back, and took Mrs. Cibber away with them."

In the long run the facts of the case could not be directly disputed and the jury found in favour of the apparently outraged husband; but when they added their assessment of damages at £10, instead of the hoped-for £5,000, Theophilus could not hide his displeasure.

Determined to get more money out of the situation, Theophilus declared that he was willing to forgive and forget if his wife returned to him. Far from doing this, she proceeded to go into hiding—this time to have a baby by her devoted lover.

Once more Theophilus decided on active tactics. Again he traced his wife's whereabouts, and this time burst into her house and not only attacked her but smashed the furniture and everything else he could find.

As if that were not enough, he invoked the law again. This time the accusation was framed differently. Sloper was now charged with " Trespass and Assault, in taking, leading away and detaining the Plaintiff's wife " and also " Assaulting, Beating, etc., the Plaintiff's wife whereby he lost her Assistance, to his Damage of Ten Thousand Pounds."

Once more Theophilus provided a series of dubious witnesses, among them a cobbler named Walton, who painted a tearful picture of the good Theophilus promising his wife " she should never want a shilling whilst he had it," and even " handing back her purse containing eighteenpence and a pocket piece."

Counsel for the unfortunate Sloper, who was paying rather dearly for his infatuation with Susanna, pointed out with justification that the plaintiff had not come for his wife but merely to strip her brutally of everything he could find.

Said counsel: " Why did he not take her along with him? "

However, once again Theophilus won his case—once again " won " is perhaps hardly the word. This time the jury, it is true, did allow him damages of £500—but these compare rather pitifully with his grandiose claim of £10,000.

At any rate, Theophilus was put off from further legal action. Indeed public opinion was so strongly against him, even though he did, in the strict letter of the law, win his suits, that he appears to have gradually faded out of his unfortunate wife's life.

She for her part probably said her last word in the matter when she played Desdemona at Covent Garden soon after the court cases—putting so much emotional intensity into the part, especially the tortured declaration of innocence, that the audience rose to her, realizing that she was speaking from her heart. From then onwards Susanna went on to the heights of her profession—when she died, Garrick said " The Tragedy has died with her." As for her ne'er-do-well husband, he is best left in the limbo where he would have lain but for the brief notoriety achieved by his dubious ventures in to the law courts.

CONCERNING SECONDARY EDUCATION

[CONTRIBUTED]

The 11-plus examination, for many years, has been a matter of contention among those responsible for the education of children attending the schools of the local education authorities. Many educationalists of note condemn it outright, others are highly critical of it, and few or none are wholly satisfied with it.

Parents anxious to secure the best possible opportunities of education for their children are infuriated when their child is rejected as a candidate for admission to the grammar school; and this rejection often has a most devastating effect on the child. A period of distress, humiliation, and frustration only too often follows failure to secure a place. No amount of propaganda on the part of local education authorities will remove the feelings of resentment and frustration raised by the operation of this method of selection. What then is the remedy for this unhappy state of affairs?

It has become increasingly apparent to the writer that a radical revision of the scheme of secondary education is overdue. The Education Act, 1944, s. 8, makes provision for the education of the child according to its abilities and aptitudes, while s. 76 requires that so far as possible this shall be done in accordance with the wishes of its parents. Further, the intentions of the Government were set forth in the White Paper on Educational Reconstruction (Cmd. 6458 of 1943, pp. 9–10) which states that " children at the age of about 11 should be classified, not on the results of a competitive test, but on the assessment of their individual aptitudes largely by such means as school records, supplemented if necessary by intelligence tests, due regard being had to their parents' wishes and the careers they have in mind. Even so, the choice of one type of secondary education rather than another for a particular pupil will not be finally determined at the age of 11, but will be subject to review as the child's special gifts and capacities develop. At the age of 13, or even later, there will be facilities for transfer to a different type of education, if the original choice proves to be unsuitable. The keynote of the new system will be that the child is the centre of education and that, so far as is humanly possible, all children should receive the type of education for which they are best adapted. If this choice is to be a real one, it is manifest that the conditions in the different types of secondary schools must be broadly equivalent."

Herein lies the solution of the problems arising from the present method of selection for the different types of secondary education, namely, a full and complete implementation of the foregoing provisions and intentions, both in the letter and the spirit. The child is to be regarded as endowed with potentialities, more or less unpredictable; and the parent is to be recognized as having some degree of parental right and authority. At present the award of a place in a grammar school is not determined by the ability and aptitude of a child alone, nor with due regard to the wishes of the parents, but primarily by the limited number of places available for distribution to those scoring the highest marks. To meet the immediate situation enough places in grammar schools must be provided for those children reaching clearly defined standards of attainment, and to satisfy the parents that no barrier to higher education is placed in the way of their children. The establishment of conditions in secondary modern schools and in technical schools equivalent to those in grammar schools would eventually place all schools on the same footing in the estimation of both parents and pupils, and also of the public in general. From a national point of view the educational system at present can only be described as anarchy. Whilst every incentive should be offered to local initiative, local inertia should be sternly dealt with. National standards of practice and achievement should be enforced where necessary, and the same facilities for secondary education should be available in every part of the country. The present disparity between the best and the worst local education authorities must be made to disappear.

ADDITIONS TO COMMISSIONS

LINCOLN (PARTS OF LINDSEY)

John Dawson Chambers, 12 Vicarage Gardens, Scunthorpe.
Mrs. Marjorie Blanche Duffelen, 13 Beechway, Scunthorpe.
Charles Norman Wright, 62 High Street, Mablethorpe.

MONMOUTH COUNTY

Albert Thomas Barney O'Neill, Corrymeela, St. Lawrence Road, Chepstow.

MISCELLANEOUS INFORMATION

JUSTICES' CLERKS' SOCIETY

Annual Meeting and Conference at Harrogate

The outstanding feature of the annual meeting and conference of the Justices' Clerks' Society at Harrogate on July 5 and 6, 1956, was an address by the Lord Chief Justice, Lord Goddard. He spoke for over an hour and gave practical advice on procedure for stating a special case for the opinion of the High Court, as to the position of justices upon motion made for *certiorari* or *mandamus*, and with regard to the proper considerations for granting special orders of exemption under the Licensing Act, 1953. Of the decision in the *East Kerrier* case Lord Goddard had this to say: "The only point the Court desired to lay down was that it is not desirable that a clerk should retire *as of course* with the justices." The right thing is for magistrates to send for their clerk as soon as they want him, and if the clerk takes care to come back into court a few moments before the justices return, it looks better. Another point made by Lord Goddard was that there is no longer the congestion of civil business at the Assizes which obtained in recent years, and, within proper limits, prisoners might now be committed for trial at the Assizes and thus relieve a little the pressure upon county quarter sessions. Lord Goddard appealed to clerks to justices to do their best to see that magistrates do not confuse matters of defence and matters of mitigation. It sometimes happens that magistrates who should have convicted, and could have inflicted a nominal penalty or granted a conditional discharge, dismiss the case. There is an appeal by special case and the defendant is called upon to pay substantial costs in addition. With regard to defence certificates where guilt is admitted and only a plea in mitigation can be made, Lord Goddard had always felt that if a prisoner has anything to be said in his favour in mitigation, it comes far better from the prisoner himself. Concluding, the Lord Chief Justice said he thought procedure in magistrates' courts should be simplified and he hoped that if an amending Bill is proposed, justices' clerks will make useful suggestions, for he was sure there was nobody better able than the Justices' Clerks' Society to give useful information about the matters which ought to be considered.

At the conclusion of his address Lord Goddard presented the Justices' Clerks' Society's Prize for 1955 to Mr. A. R. Rickard, B.A., B.C.L. (Oxon.), who was articled to Mr. G. S. Green of Manchester.

There was a record attendance when the Mayor of Harrogate welcomed the Society, paying a return visit after eight years. Those present included two of the country's women clerks to justices: Miss Joan Adair (Kingston Borough) and Miss Lois Shawyer (Jarrow and Blaydon).

Announcing that the Joint Negotiating Committee for Justices' Clerks had agreed to further salary increases effective on January 1, 1957, the President, (Mr. Leslie M. Pugh of Sheffield) said that, whilst unilateral action on the part of a small Society would be useless in the general battle against inflation, he would like it to be known that justices' clerks would willingly join with other societies and bodies in an endeavour to curb it. Of the proposal now being examined to discover whether a work-measurement system can be devised for justices' clerks' offices, Mr. Pugh had this to say: "We are on the whole disposed to think that these problems are best settled at local level but only after full consultation with the clerks to justices in the locality." The need for better relationships between county magistrates' courts committees and the justices in the county divisions and their clerks was underlined with some feeling at the meeting of the officers of branch societies which is always held on the eve of the annual meeting, and which was attended this year by representatives of 21 branches, covering 33 administrative counties.

The officers elected for the ensuing year were: President: Mr. Augustus W. Dickson (Sutton Coldfield), Senior Vice-President: Mr. Clifford F. Johnson (Blackpool), Junior Vice-President: Mr. A. J. Chislett (Croydon), Honorary Treasurer: Mr. L. M. Pugh (Sheffield), and Honorary Secretary: Mr. B. J. Hartwell (Southport). Mr. B. Price Francis (Walsall) is the newly elected member of the Council.

Last year's experiment was repeated of having group discussions at which widely varied points of practice and procedure in magistrates' courts were ventilated. The advantage of these small groups lies in the large number of members who contribute to the discussions. At the concluding session of the annual meeting the rapporteur summarized the consensus of opinion in each group.

For the ladies attending the conference there were visits to York Minster and to the Castle Museum with luncheon as guests of the Durham and Northumberland Branch Society. At Harrogate the Yorkshire clerks acted as hosts at the members' luncheon. Distinguished guests at the Society's conference dinner included the Mayor and Mayoress, Lord Merthyr, Sir Laurence Byrne, the High Sheriff of Yorkshire, and Sir Henry Studdy.

The conference headquarters were the Hotel Majestic and the Society is especially indebted to Mr. W. E. Woods (Harrogate) for acting as conference secretary.

LOANS SANCTIONED IN QUARTER TO JUNE 30, 1956

Figures published by the Ministry of Housing and Local Government show that loans sanctioned for this quarter totalled £116 million, a reduction of £15 million as compared with the last quarter of the previous financial year.

We give a summary of the purposes for which sanctions to borrow were issued; with comparative figures:

	Quarter ended	
	June 30, 1956	*March* 31, 1956
	£m	£m
Housing (land, dwellings, roads, sewers, etc.)	52	60
Advances and Grants under Housing and S.D.A. Acts	15	22
	67	82
Sewerage, sewage disposal and water supplies	10	12
Education	27	28
Miscellaneous	12	9
	116	131

Housing accounts for the reduction: the highways, police, fire and children's services (included under miscellaneous) all show increases over the previous quarter.

ROAD CASUALTIES—APRIL AND MAY

Provisional road accident figures for May for Great Britain show that casualties totalled 25,055. This includes 458 deaths and 5,584 cases of serious injury. Compared with the final figures for May, 1955, there were 41 more killed and 281 more seriously injured; slightly injured numbered 19,013, an increase of 1,083. There was thus an increase for all casualties of 1,405.

The final figures for April were: killed, 405; seriously injured, 4,743 and slightly injured, 15,333, a total of 20,481. This total is 107 less than in April, 1955, but there were two more deaths.

The provisional total for the first five months of the year is 99,026, an increase of 8,270, or nine *per cent.*, on the total for the same period of last year. Deaths numbered 2,001, an increase of 160, and serious injuries 22,601, an increase of 1,605.

DERBYSHIRE COUNTY COUNCIL FINANCES, 1955-56

County Treasurer Mr. T. Watson, A.S.A.A., F.I.M.T.A., has again led the county field in the publication of his annual accounts, presenting his information in an attractively printed booklet of modest dimensions.

A number of comparisons with previous years are given and for this purpose the year 1949–50 has been chosen as a standard, but Mr. Watson is careful to point out how the value of money has changed since that date and quotes these figures given in the Ministry of Labour Gazette:

Financial Year	*Ministry of Labour Cost-of-Living Index*	*Ministry of Labour Index-of-Wage Rates*
1949–50	100	100
1954–55	129	132
1955–56	136	141

In 1949–50 the county population was 678,000; in 1955–56 it was estimated at 705,000 and there are only nine English counties with a larger population. The total county rate precepted for 1955–56 was 15*s.* 9*d.* as compared with 10*s.* in the standard year, an increase of 57 *per cent.* as compared with an increase of 36 *per cent.* in the cost of living index over the same period, the difference being generally accounted for by development of services. This is underlined by the increase in net loan debt from £1,880,000 to £7,809,000: average rate of interest paid on the latter was 3·8 *per cent.*

The year's results showed an underspending of £87,000 as compared with the forecast made when the 1956–57 estimates were being prepared, principally on highway improvement schemes and the maintenance of unclassified roads, and the year closed with a credit balance of £665,000 (1*d.* rate product £16,000) of which £479,000 was represented by cash. Capital cash was overdrawn £431,000.

Percentage increases of each expenditure head as compared with 1949–50 are shown: the only two to exceed 100 *per cent.* are administration of justice (103 *per cent.* and principally due to the employment of a number of whole-time justices clerks and staff by the Magistrates' Courts Committee), and river board precepts (111 *per cent.* and principally due to the carrying out of considerable schemes of flood prevention). It would be a considerable overstatement to

describe as pleasurable the sentiment with which river board precepts are commonly received by the constituent authorities; nevertheless we feel that they are bodies somewhat maligned and when complaints are made about their expenditure it is frequently overlooked that only a relatively small proportion is met by government grants and the call on the ratepayers therefore correspondingly heavier. Whereas for every £100,000 spent by Derbyshire government grants meet £67,000, in the case of similar expenditure by a river board the grant figure might well be no more than £4,000.

The county council lends money to officers in receipt of essential user allowances to purchase motor cars and loans are also made to police officers for the purchase of typewriters and bicycles. During the year £67,000 was advanced for these purposes and at March 31 the total owed by officers was £90,000.

PUBLIC RELATIONS

Mr. Wedgwood Benn initiated an adjournment debate in the House of Commons on June 8, on the public relations policy of government departments, local authorities, public corporations and other official agencies. He complained that local authorities had no great tradition of regarding ratepayers as customers; many town clerks did not see the importance of this but he thought the work of the pioneer public relations officers in local government had been excellent. He mentioned, in particular, Middlesex, Kent, Lambeth, Bristol, Birmingham and Coventry. But many local authorities had done nothing in this matter. He spoke amusingly of his experience in writing without disclosing that he was a Member of Parliament, to 14 government departments for information. He also wrote to certain local authorities and hospital bodies. From the kind of replies he received he reached the conclusion that the personal relations were very bad in many cases.

In the field of local government Mr. MacColl paid tribute to the Institute of Public Relations and to N.A.L.G.O., which was the first body to present this matter to local authorities in its report on " Local Government and the Community." He regretted that there had been a diminution in the contact between the Central Office of Information and local authorities. In its early days the C.O.I. was most valuable in providing technical advice, exhibitions and so on. Mr. Sydney Irving pleaded that voluntary organizations such as Citizens Advice Bureaux should be used to help in getting a better understanding between the citizens and the local authority. The Financial Secretary to the Treasury (Mr. Henry Brooke) in replying to the debate said he attached very high importance to good public relations and agreed that it was necessary to seek improvements. He said it was very important that the citizen should be enabled to understand what was being done by the local authority and to be assured that all complaints and inquiries would be dealt with satisfactorily. In present conditions it was the duty of the public authority to ensure that the people affected by its activities and policies should know of the impact of these policies on their daily way of life and that any member of the public who had an inquiry to make should be dealt with courteously and sympathetically. He thought, however, that only the larger local authorities needed a public relations officer of their own. The important thing, in his view, was that everybody—members of the council and chief officials—should be taught to appreciate public relations work. He agreed that the Citizen Advice Bureau was a very valuable medium through which local public relations could be done. But in his view the main vehicle for news of what the local authority was doing must be the local press. He had great sympathy for local newspapers which complain that they can never get any information from the council. He did not agree, however, that every committee should be open to the press. He concluded by saying that the good newspaper can do more than any other single medium to create a better understanding between the individual citizen and the local authority.

VITAL STATISTICS, JUNE QUARTER, 1956

The Registrar General has announced the provisional figures of births and deaths in England and Wales in the June quarter.

Live births registered numbered 182,593, representing a rate of 16·5 per thousand population. This is the highest rate for a June quarter since 1951, when the rate was 16·6; in 1955 it was 15·5.

There were 120,095 deaths registered, representing a rate of 10·9 per thousand population, compared with 124,230 and a rate of 11·2 in the second quarter of 1955 and 117,205 (rate 10·6) in the same quarter of 1954.

Deaths of children under one year of age numbered 4,081, giving a new record low rate for a June quarter of 23·0 per thousand related live births. The previous lowest for this quarter was 4,155 deaths (rate 24·4) recorded last year. In 1938 the corresponding figures were 8,006 and 50·3, respectively.

There were 4,229 stillbirths registered, giving a rate of 22·6 per thousand live and stillbirths; in the corresponding quarter of last year the figures were 4,023 and 23·0, respectively.

TRAVELLING EXPENSES OF PROBATIONERS

In Home Office circular No. 102 dated July 20, it is announced that general approval has been given under r. 78 (5) of the Probation Rules, 1949 (as amended by the Probation Rules, 1951), to expenditure, where necessary, by a probation committee on the fare and reasonable subsistence to enable a probationer to travel from court to the place named in the order as the petty sessional division where he resides or will reside.

The probation committee authorized to incur the expenditure is the committee which would be responsible under r. 73 of the Probation Rules, 1949, for making payments under r. 72 had a requirement of residence been included in the probation order.

Such expenditure should be incurred only where there is need, and a probationer should be encouraged to make such repayment as he can.

OCCASIONAL LICENCES AND YOUNG PERSONS ACT, 1956

Home Office Circular No. 94/1956 draws attention to the above Act, which comes into operation on September 5, 1956.

The Act applies, to the holder of an occasional licence and to premises covered by an occasional licence:

(*a*) the prohibition on the employment of persons under 18 in bars, and

(*b*) the restriction on the supply of intoxicating liquor to persons under 18 for consumption on the premises

already applied by ss. 127 and 129 respectively of the Licensing Act, 1953, to ordinary on-licensed premises.

THE PUBLIC TRUSTEE OFFICE

A report has been issued of a committee appointed by the Lord Chancellor to consider the work of the Public Trustee Office and to advise whether any changes should be made in its functions of methods. The office was established under the Public Trustee Act, 1906, and the trustee is at present responsible for 17,732 trusts of an estimated total value of £265 million. The Law Society, in a memorandum to the committee, agreed that the existence of the Public Trustee is a salutary check upon the commercial trustee companies and is especially useful in cases of a troublesome nature.

The committee believe the demand for the Public Trustee's services will continue and that it would be expanded if facilities offered by his office were more widely known. His functions as contemplated by the Act of 1906 were the administration of trusts of a private and family nature. This is still the main business. It has been found, however, that his office can be used also in administering funds affecting a wider circle of beneficiaries such as pension scheme funds and trade union funds and the committee think there is every possibility that his service in trusts of this nature will be increasingly sought. The committee were satisfied that although some of the staff of the Public Trustee have professional qualifications—barristers, solicitors, accountants and the like—they do not usurp the functions of the members of their professions in private practice.

PORTSMOUTH JUVENILE COURT

If statistics are to be of any value they must be properly related to each other, and the report of the juvenile court panel for the city of Portsmouth is an example of careful comparison. It might appear that there has been a disquieting increase in juvenile offences during recent years, but in the last 10 years the city's school population has risen by no less than 42 *per cent.* so that despite the increased numbers before the court, when viewed in the light of the rising population, the position would appear to be improving. Actually a review of the statistics from the date of the commencement of the Children and Young Persons Act, 1933, reveals that the work of the juvenile court as a whole has increased threefold, and since 1944 it has risen by 33½ *per cent.* In 1955 the peak age group for boys was 13, whilst that for girls was 15–16. There was a noticeable rise in the number of wilful and malicious damage cases during 1955.

Probation was used in about half of the indictable offences, and in practically every case involving loss or damage the probationer was ordered to pay the amount for which he was responsible.

Since April an all-age remand home, provided by the city council has been of considerable service to the juvenile court. Previously children under 14 had to be taken to Winchester. Facilities for use as a special reception centre are now afforded by the children's homes at Cosham.

The juvenile court has made frequent use of the attendance centre, and this report includes a report furnished by the officer-in-charge, Mr. B. Morrissey. Physical exercise, is part of the routine and so is useful instruction. A small but interesting detail is that many of the boys managed to complete a shopping basket during the basketry sessions and many of them purchased it for use in the home. Mr. Morrissey goes on:

" As one who has been closely connected with boys' clubs for some years, I firmly believe that the diversion of youthful energies into proper channels will ensure a much more definite cultivation of mind and character and therefore no opportunity was lost in encouraging the boys to continue with organized recreational activity after they had left the centre. It was emphasized that they should endeavour to regard themselves as an integral part of their organization and to be proud of their club and the results it strives to attain."

Dealing with the subject of television the report suggests that what is seen is usually harmless but adds that now that the service is presumably within the reach of all classes, it would appear to have its dangers with some young people in that it is a provided entertainment, which, like the cinema, tends to become a major interest of their periods of leisure and somewhat overshadows any desire to seek the opportunities of companionship and wholesome interests which organized recreation offers, and which plays such a vital part in moulding the characters of young people.

THE COUNTY BOROUGH OF HASTINGS: CHIEF CONSTABLE'S REPORT FOR 1955

With a loss of only three members of the force and the recruitment of nine, the chief constable is able to report that on December 31, 1955, his actual strength equalled his establishment of 127. Later in the report he refers to his having had to apply for an increase of six in the establishment to enable him to ensure the satisfactory performance of all the various police duties without resort to overtime. We infer from the report that this application has not yet been dealt with by the Home Office.

In speaking of the problem of recruiting the chief constable states " It is still apparent that many applicants have no conception of what is required before being accepted for service in the police, the educational standard of some applicants being still little short of appalling."

During the year the special constables did 4,439 hours voluntary duty. After the resignation of a number who had done no duties for five years or more the strength of the " specials " was 84, including seven women.

The sickness figures for the past nine years are given in the report. It is interesting to note that in 1947 and 1948 the total number of " lost days " were 823 and 655 respectively. The National Health Service came into operation in 1949 and since then the figures have been 1,350, 1,328, 1,030, 1,495, 1,515, 692 and 1,120. It will be seen that only the 1954 figure is comparable with the pre-1949 ones. We did see a comment in another report that under the National Health Service police officers are free to choose their own doctors, and that a considerable increase in the days lost by sickness had been apparent in that force since that had happened. We confess that to us the reason for this is not apparent.

Hastings has, as one would expect, its full share of traffic problems and the fact that it is gaining in popularity as a rendezvous for motor car and motor cycle rallies must increase the volume of visiting traffic that has to be dealt with. The report states that " courtesy and safety are the main theme of our traffic patrols. Example, advice and caution, rather than prosecutions, may be the strongest deterrent in accident prevention and obstruction of the highway, but there is a limit to the extent to which this method can be effective." Three thousand eight hundred and ninety-four " on the spot " cautions were given by mobile police officers, and 584 offences were reported by them. In addition 1,313 " blue label advice/caution " notices were affixed to car windscreens to inform drivers of minor breaches of regulations and to ask for their future co-operation. The report claims that this scheme continues to bring satisfactory results, but does not state how this conclusion is arrived at.

Attention is drawn to the likelihood of injuries to riders of and pillion passengers on motor cycles which are involved in collisions, and it is suggested that every encouragement should be given to the wearing of crash helmets and that there should be some restriction of the cylinder capacity of the machine in the case of young riders. There is no doubt that the power of many modern machines is such that unless they are ridden with reasonable care and discretion they can be just as dangerous to their riders as to other road users, but it is not easy to see how any satisfactory arrangement could be made to make such a restriction effective other than by an absolute bar on persons below a certain age riding machines of more than a stated capacity. Even then, the performance of a machine is not dependent wholly on its cylinder capacity.

There was a slight increase in indictable crime compared with 1954—501 against 492, but there was an increase in the detection rate to 64·2 *per cent.*, the highest figure yet recorded in Hastings. One hundred and twenty-four persons were prosecuted for crime and another 52 " were not taken before the court for special reasons, such as age and illness." Fifty-one of the offenders were juveniles, a considerable increase on the 1954 figure of 27. For non-indictable offences 34 juveniles were prosecuted (39 in 1954). There were 496 adult summary prosecutions by summons. In 12 of these cases the information was dismissed. There were also 65 summary charges, including eight under s. 15 of the Road Traffic Act, 1930.

TREATMENT OF ALCOHOLICS

Alcoholism is said to be one of Canada's major health problems. It is estimated that there are 150,000 alcoholics, 16 of every 1,000 adults. The alcoholic employee loses upwards of 18 days a year because of his illness in comparison to seven or eight days for other employees. In addition to this loss, he causes an increase in accidents and wasted material. The " average " alcoholic is in the productive years between 35 and 45, married with two or three children. It has been suggested by the Ontario Alcoholism Research Foundation that alcoholism should be thought of as having two parts: (1) an abnormal dependence on alcohol; (2) an abnormal reaction to alcohol. It is recognized that the alcoholic is not just physically sick. They have also mental, social and spiritual needs to be satisfied. Research has shown that on the average there is a 10 year period of so-called " heavy drinking " before loss of control and other features of the abnormal reaction begin to appear. The alcoholic cannot recover just by will power and determination alone. He needs assistance. Professional treatment centres have been opened by three Canadian provinces and other provinces are contemplating taking similar action. Also there are Alcoholics Anonymous groups in many Canadian cities and towns. It is thought that research into and education about alcoholism will continue to demand more attention. But that as understanding grows, prevention of the disease will make treatment measures more and more unnecessary.

In Great Britain also, much is being done for alcoholics by psychotherapy and by group therapy afforded by Alcoholics Anonymous. It has generally been considered that the methylated drinker is one of the most difficult addicts to alcoholism to cure. Many of those who frequented the casual wards in Poor Law days had become social outcasts through drinking " red biddy," a concoction of methylated spirit and cheap red wine. But from the experience of those in charge of the addiction unit at Gartlock Hospital, Glasgow, a methylated spirit addict is no lower a type than any other alcohol addict; the only reason why he has recourse to such a revolting drink is that he cannot afford anything better.

Another provision for the treatment and cure of alcoholics is in a clinic which has been established at Belfast as an annexe to a hospital for nervous diseases. This was established as part of the National Health Service by the Northern Ireland Hospitals Authority at the request of Alcoholics Anonymous. The result of the work of this clinic will no doubt be watched with interest by other hospital authorities.

LITTER AGAIN

We do not apologize for referring again to the need for increased action to prevent litter disfiguring the country side at this time of the year when the greatest nuisance is caused. A report was issued recently on the 1955 anti-litter publicity campaign which was the fifth to be organized in successive years by the Central Office of Information with the assistance of a committee representative of various government and non-government bodies including the associations of local authorities. The campaign opened with the issue of press notices and an announcement by the B.B.C. As a result, wide publicity to the litter problem was given in the press during the summer. On the desirability of enforcing byelaws against litter offenders, opinion appears to be hardening in favour of enforcement. Compared with previous years there was an increase in the number of newspaper reports on prosecutions. Publicity was also given through schools. But the report shows that the results of the campaign were difficult to assess. It seemed, however to be generally agreed that active measures against litter ought to be intensified and that the persuasive campaign, together with the provision of more litter bins, and, to a lesser degree, the enforcement of byelaws, should be the chief lines for future action.

Much litter is caused by passengers in motor coaches and in this connexion it should be remembered that the throwing of bottles and litter from public service vehicles is an offence under reg. 9 (xiii) of the Public Service Vehicles (Conduct of Drivers, Conductors and Passengers) Regulations, 1936. The Rural District Councils Association has suggested to the Ministry of Transport that consideration should be given to every motor coach containing a notice warning passengers that such conduct is an offence.

We were glad to see from the *East Anglian Daily Times* that an anti-litter campaign in Norfolk was launched recently at a meeting convened by the county council following a request by the Norfolk Federation of Women's Institutes. The secretary of the National Parks Commission, speaking at the meeting, suggested that in 90 *per cent.* of cases litter was the result of thoughtlessness or laziness

rather than viciousness. He said motorists were the worst offenders and suggested that petrol companies should be asked to provide motorists with " trash bags " such as are used in the United States.

It is not only in this country that there is the litter nuisance. In New York the subject is causing much concern and a thorough investigation has been undertaken with a view to developing a proper system of street receptacles. It was found that the cleanliness of streets improved very considerably by placing baskets at main street intersections, bus stops, near schools, churches and other high litter potential areas. Incidentally it seems that road sweeping is done much more frequently in New York than in our cities. It was found, however, that many residents were surreptitiously using the baskets to dispose of private refuse and garbage. Although this practice is illegal, it was thought to be preferable to the former common practice of dumping waste in the gutter. As a result of tests made by the department of sanitation it was estimated that the annual sweeping load in New York could be reduced by some 100 million pounds of material by the judicious placing of street receptacles. The department experimented with painting baskets in different colours and it was found that aluminium colour seemed to be the best. This has become the standard.

WEEKLY NOTES OF CASES

HOUSE OF LORDS

(Before Viscount Simonds, Lord Oaksey, Lord Morton of Henryton, Lord Tucker and Lord Keith of Avonholm)

SHELL-MEX AND B.P., LTD. *v.* CLAYTON (VALUATION OFFICER) AND OTHERS

June 26, 27, 28, July 25, 1956

Rating—De-rating—Freight-transport hereditament—Installations for unshipping and storing oil before distribution—Rating and Valuation (Apportionment) Act, 1928 (18 *and* 19 *Geo.* 5, *c.* 44), *s.* 5 (1) (*c*), *s.* 6 (3) (*b*).

APPEAL from decision of Court of Appeal (1955) (119 J.P. 545).

The ratepayers, who were the sole selling agents in the United Kingdom of three oil producing companies, were occupiers of land along the banks of the River Humber which they held under leases from the British Transport Commission or their predecessors in title and used as a terminal depot in their business of importing and distributing oil. Substantially the whole of the ratepayers' business consisted of the sale and distribution of the oil, and they were remunerated for their services by the three companies on a commission basis. There stood on the land occupied by them—which was some 51½ acres in area—offices, stores, garages, filling sheds, pump houses, a boiler house, tanks, and ancillary buildings, all of which erections save one were occupied by the ratepayers. In addition, the ratepayers owned and occupied a barge berth erected on part of the foreshore, in part leased from the Board of Trade and in part under licence from the British Transport Commission or their predecessors in title. This berth was some one thousand feet from the hereditament and was connected with the pump houses and tanks on the hereditament by means of pipe lines which were owned, occupied and used exclusively by the ratepayers. Incoming tankers discharged their cargoes of oil at two jetties which belonged to the British Transport Commission and constituted a " dock " within the Rating and Valuation (Apportionment) Act, 1928, s. 5 (3). Cargoes were discharged by pumping the oil from tankers through a system of pipes running along the jetties and leading to the storage tanks on the hereditament, the ratepayers taking delivery of the oil at the ship's rail. The average receipts and deliveries of oil approximately balanced, and the stock held at the hereditament was in the nature of a reserve. The ratepayers distributed supplies of oil by land and water transport to their own depots and to various categories of customers, but they consumed a relatively small quantity in their own operations. Some of the oil was shipped into barges at the barge berth (which was a " dock " within the meaning of s. 5 (3) of the Act of 1928). Approximately one-quarter of the oil brought into the hereditament from the tankers was dutiable, and the whole hereditament, including the pipes and the storage tanks, was a bonded warehouse. The terms of the leases under which the hereditament was held showed them to have been granted for the purpose of receiving into the hereditament oil unshipped at the jetties.

It was contended for the ratepayers that the hereditament was a freight-transport hereditament within s. 5 (1) (*c*) of the Rating and Valuation (Apportionment) Act, 1928, as being a hereditament (i) used partly for dock purposes, (ii) so used as part of a dock undertaking, and (iii) whereof a substantial proportion of the volume of business was concerned with the shipping and unshipping of merchandise not belonging to or intended for the use of the ratepayers. The valuation officer and the rating authority conceded for the purposes of this appeal to the House of Lords that the hereditament was used partly for dock purposes.

Held: the hereditament was not a freight-transport hereditament because, although it was conceded that the hereditament was used partly for dock purposes, (*a*) (LORD OAKSEY dissenting) it was not used and occupied for dock purposes as part of a dock undertaking, (*b*) (per VISCOUNT SIMONDS and LORD TUCKER, LORD MORTON OF HENRYTON contra) the oil was " intended for the use of " the ratepayers within s. 5 (1) (*c*) since the ratepayers' business comprised the sale and distribution of oil, and, therefore, the dock undertaking carried on at the barge berth was not one at which a substantial proportion of the volume of business was concerned with the shipping and unshipping of merchandise not intended for their use.

Appeal dismissed.

Counsel: *Rowe, Q.C.*, and *J. R. Willis* for the appellants.

Lyell, Q.C., and *P. R. E. Browne* for the first respondent, the valuation officer.

H. Edmunds Davies, Q.C., and *Wallis-Jones* for the second respondents, the rating authority.

Solicitors: *Sydney Morse & Co.*; *Solicitor of Inland Revenue*; *Smith & Hudson* for *Mainprize, Rignall & Whitworth*, Hull.

(Reported by G. F. L. Bridgman, Esq., Barrister-at-Law.)

REVIEWS

Butterworth's Costs. Fourth Cumulative Supplement. By B. P. Treagus and H. J. C. Rainbird. London: Butterworth & Co. (Publishers), Ltd. Price 25s. net.

The main work is now well established, and this supplement is fairly bulky, because it supersedes, and embodies the material which was contained in, three ordinary supplements and a special supplement which had already appeared. It should particularly be noticed that the section on the county courts has had to be expanded by reason of the County Courts Act, 1955, and the extension of the legal aid scheme to county court proceedings. Appendices contain additional Rules for the practice of the High Court, provisions for a plaintiff's costs under the Reserve and Auxiliary Forces (Protection of Civil Interests) Rules, 1951, and a new precedent where there is an appeal from various tribunals to the Court of Appeal. Further appendices contain lists of charges for parliamentary work relating to Bills presented on or after November 15, 1955. It will be seen that there is a great deal of new matter, to say nothing of the convenience of having brought together the material which appeared in earlier supplements. The book is designed for use with the main work, and keyed to it by page references, so that the solicitor or official using the main work can by taking up the reference find the latest information on each subject. In addition to the information made available in this way, there will be found in part III of the book full information about costs at Quarter Sessions. The Costs in Criminal Cases Act, 1952, was a consolidating measure which came into force at the beginning of 1953. It is set out *in extenso* in the present work, and it supersedes wholly or in part six previous Acts. As well as setting out and annotating these statutory provisions and certain rules and regulations, the editors have provided a brief introduction to this part of the book, explaining the system generally. To say nothing of criminal proceedings, there are other matters with which a good many of our readers are concerned before quarter sessions, where costs have to be considered—for example, the stopping up or diverting of a highway.

Part IV of the book contains extracts from the Legal Aid and Advice Act, 1949, and the related regulations, with appropriate

notes followed by forms, which will be of assistance in regard to directions for taxation. There are useful and very practical notes about the form in which party and party costs and solicitor and client costs should be set out for the taxing master, with detailed reference to counsel's fees, attendance in London for consultations, and so forth, and a number of specimen bills of costs, to say nothing of these new matters. The earlier part of the book contains a wealth of information some of which is worth bearing in mind even apart from its association with costs: for example the position of the Mayor's and City of London Court under s. 7 of the County Courts Act, 1955, and the note published by the Law Society in January, 1955, about the proper time for paying counsel's fees.

The editors are both members of the staff of the Supreme Court Taxing Office, and the section on quarter sessions mentioned above is contributed by the deputy clerk of the peace of the County of London Quarter Sessions. The information given can therefore be relied on, and the supplement should clearly be in the hands of every practising solicitor, and of those departments of local authorities which are concerned with the payment of legal costs.

The complete work including supplement is provided at £7 10s. net. This places it in the most expensive class of books, but its subject is so vital to the profession that the expenditure on the main work will already have been justified, and the relatively modest price of the supplement will not be grudged.

The Civil Service. Some Human Aspects. By Frank Dunnill. London: George Allen and Unwin, London. Price 18s. net.

This is an attempt to inform the public, broadly speaking, how work is done in government departments, particularly by officers of the middle grades. Apart from the counter staff of the post offices and the Customs, it is with the middle grades that the ordinary member of the public comes most into contact, as indeed does the ordinary local government official. It is also in the middle grades of the Service that the vast mass of paper work is done, which affects people in their daily lives although they never see those who have handled the paper. Even the legislative output of the Service, in the form of statutory instruments, involving decisions in the highest ranks and submission by the highest ranks to Ministers, will for the most part have been prepared in the general body of an office. The author contrasts the British system of getting these tasks done, which has been almost wholly that of trial and error (and indeed is hardly worthy to be called a system), with the academic approach to the procurement and training of staff favoured in the leading continental countries, and with the tendency to make a clean sweep from time to time in the United States. Security of tenure, though less absolute in the British Home Service than is commonly believed, has been one of its central principles for generations, and this is one distinction from what is done in some other countries. On the other hand the deliberate training of staff for responsible employment, which has been a feature of the German services and also of the French (particularly through the Polytechnic), has never been adopted here. These matters are explained quite simply, and Mr. Dunnill draws a useful distinction between the relation of the Civil Service to what he calls the organized public and its relation to the public generally.

The chapter upon civil servants and Parliament is topical, and explains a good many things which are not to be gathered either from *Hansard* or from newspapers. We understand the author to have entered the Service as a boy, before the war of 1939; to have served in the Navy, and on return to Whitehall to have made his way through other ranks and finally through a competitive examination, to attain administrative rank and a position of personal responsibility. Obviously he is able to tell readers how the work is done, and he had done so in readable English; without unnecessary elaboration, but in such a way that the large section of the British public, which gets its ideas of Whitehall from the less responsible sections of the press, will certainly profit from study of the book. It is another work which could usefully be placed in every public library.

1,000,000 Delinquents: A Study of Juvenile Crime. By Benjamin Fine. London: Gollancz. Price 18s.

The fact that this arresting book is a study of juvenile delinquency in the United States should deter no one in this country from reading it with the thoroughness which it deserves. Mr. Fine, who is education editor of the *New York Times*, makes it abundantly clear that the basic problems underlying delinquent behaviour are common to all highly industrialized and densely populated countries. We doubt whether the nature of these problems has been more graphically revealed, or explored with more human understanding.

It is typical of Mr. Fine's approach that he should place in the forepart of his book a series of interviews with delinquents of both sexes. These carry conviction by their stark frankness: here (and how grateful we should be for the experience) erring youth speaks in a language refreshingly different from the psychological jargon which is so familiar to those whose work takes them to the juvenile courts. It is interesting to note that these youngsters have a pretty clear idea of the reasons for their behaviour. Generalization is dangerous, but it seems safe to say that boredom is a factor common to many of the cases described, and it certainly figures prominently in Mr. Fine's own analysis of factors making for delinquency.

This analysis constitutes the heart of the book, and the closing chapters take us round the American courts and training schools. Whilst there is a good deal about Mr. Fine's account of the offences committed and the methods used in dealing with them which makes conditions on this side of the Atlantic seem comparatively mild, we should beware of adopting the " holier than thou " attitude which is so tempting.

Constitutional and racial factors make for difficulties in America which do not obtain over here. Far better to read this humane and deeply-argued book for the considerable light it can throw on a problem which has rightly come to be regarded as of cardinal urgency.

Schedule A Tax. Its Assessment and Collection. Fourth Edition. By Donald L. Forbes. London: Gee & Co. (Publishers), Ltd. Price 15s. net.

We have from time to time noticed handy little works upon legal or near-legal topics, of interest to the business world, which have been produced by Messrs. Gee, who are not primarily legal publishers. The work now before us is in its fourth edition, and will be valuable to lawyers as well as to accountants. There has not been a complete revaluation for purposes of Schedule A tax for 20 years, and it seems obvious that the rating valuation, which is now disturbing the minds of commercial ratepayers (in particular), and may soon be disturbing the minds also of residential ratepayers, must be followed by a revaluation for taxation.

The book is practical and explains the methods of assessment for different types of property, and the effect of the Rent Restriction Acts and other legislation. There is a chapter on appeals, and an explanation of the effect of losses by flood or tempest or from void properties. The sometimes difficult matter of determining " excess rents " is adequately explained, and the necessary tabular statements are presented to show how old and new leases, for example, should be dealt with. Information will also be found upon such divers matters as interest on road charges and the erection of advertising hoardings, in their relation to Schedule A. It is a workmanlike and unpretentious little book, which for accountants and solicitors in ordinary practice will usefully supplement the major works upon taxation generally.

THE WEEK IN PARLIAMENT

From Our Lobby Correspondent

MAGISTRATES AND DRIVING OFFENCES

Before Parliament adjourned for the Summer Recess, Lord Silkin asked in the House of Lords whether the Government would consider taking further steps to bring to the notice of magistrates the pronouncements made by the Lord Chancellor during the debates on the Road Traffic Bill regarding penalties for certain driving offences, and in particular whether they would send a copy of those pronouncements to all magistrates' clerks, as the Press had virtually ignored them and the Magistrates' Association comprised only about 50 *per cent.* of all magistrates.

The Lord Chancellor, Viscount Kilmuir, replied that he would be glad to consider the suggestions. As he had previously pointed out, this might well be the last chance of voluntary serious consideration of one of the greatest evils of our time. A serious effort must therefore be made to use the voluntary thought and good sense of magistrates if consideration of minimum sentences either of fine or imprisonment was to be avoided. He recalled, however, that he had also pointed out that the Executive must never interfere with the Judiciary in the exercise of their work; and therefore no member of the Executive should do anything which might appear to be giving instructions to the magistrates. He would like therefore a further opportunity of considering the proposals made in the question in the light of that constitutional principle.

The Road Traffic Bill received the Royal Assent before Parliament adjourned.

DRUNKENNESS

In a written answer, the Home Secretary stated that in 1954, 210 females under 21 were found guilty of drunkenness as the principle

offence; 23 of them were placed on probation. The corresponding figures for 1955 were 226 and 24 respectively.

Of 3,024 males under 21 found guilty of drunkenness as the principal offence in 1954, 41 were placed on probation. The corresponding figures for 1955 were 3,872 and 31 respectively.

In addition, 257 males and 11 females in 1954, and 311 males and eight females in 1955, of those ages, were found guilty of drunkenness at the same time as a more serious offence.

THE ADJOURNMENT

Parliament has now adjourned until October 23.

MAGISTERIAL LAW IN PRACTICE

East Anglian Daily Times. June 21, 1956

THIRSTY WAYFARER STOLE MILK

After spending a night " in the fields " a 56 year old man, described by the magistrates as " really a wayfarer," felt thirsty, so he stole a bottle of milk from a crate standing in the rear entrance of Woolworth's Stores at Colchester.

The man, Henry Taylor, said to be a native of West Ham, and to have been living in a lodging-house at Colchester since last July, asked for two similar offences to be taken into consideration when he appeared at a special court at Colchester yesterday, charged with stealing the milk.

The case was adjourned for a month so that efforts could be made to place Taylor in a National Assistance hostel at Kelvedon. He was remanded on bail.

In this case the defendant is reported to have been remanded on bail for a month, after his conviction, " so that efforts could be made to place him in a National Assistance hostel." Such a remand is contrary to the provisions of s. 14 (3) of the Magistrates' Courts Act, 1952, which reads: " a magistrates' court may, for the purpose of enabling inquiries to be made or of determining the most suitable method of dealing with the case, exercise its power to adjourn after convicting the accused and before sentencing him or otherwise dealing with him; but, if it does so, the adjournment shall not be for more than three weeks at a time."

There is a similar provision in s. 26 (1), limiting the adjournment to three weeks at a time, when the remand is for medical inquiries after the magistrates' court is satisfied that a summary offence punishable by imprisonment has been committed by the accused.

Where the court adjourns a case under s. 14 (3) or s. 26, the court may remand the accused for the period of the adjournment (s. 105 (4) (*b*)).

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, July 31

FINANCE (No. 2) BILL——read 3a.
SANITARY INSPECTORS (CHANGE OF DESIGNATION) BILL—read 3a.

Wednesday, August 1

AFFILIATION PROCEEDINGS BILL—read 1a.

HOUSE OF COMMONS

Wednesday, August 1

NURSERY SCHOOLS (MILK)—read 3a.
PUBLIC BODIES (ADMISSION OF THE PRESS TO MEETINGS) BILL—read 1a.

PERSONALIA

APPOINTMENTS

Mr. John Busse, recorder of Burton-on-Trent, Staffs., has been appointed recorder of Gloucester.

Mr. G. S. Ashworth, town clerk of Bridport, Dorset, has been appointed clerk to Spalding, Lincs., rural district council. He went to Bridport 18 months ago from Darwen, Lancs., where he was deputy town clerk.

Mr. Tom Agar, deputy clerk to Easington, Co. Durham, rural district council, has been appointed clerk to the council in succession to the late Mr. J. W. Gray.

Mr. James C. Swaffield, 32 years old senior assistant solicitor to Southend, Essex, corporation has been appointed deputy town clerk of Blackpool. Mr. Swaffield was articled to the town clerk of Lincoln in 1946. He was an assistant solicitor to Norwich, Norfolk, and Cheltenham, Glos., corporations before taking up his present appointment at Southend in 1953.

Mr. J. A. Weston, LL.B., at present senior assistant solicitor to Derby corporation, has been appointed deputy town clerk to the city of Peterborough as from October 1, next. He is a former Open Scholar of London University and was articled to the town clerk of Loughborough, Leics., where he subsequently rose to be deputy town clerk. Mr. Weston then became assistant solicitor to the city of Chester before going to his present position at Derby in February, 1954. At Peterborough he is to succeed Mr. A. R. B. Noble, M.C., who has been in the service of the Peterborough corporation for nearly 52 years, the last 32 in his present position. His completion of 50 years' service was recognized by an honorarium of 100 guineas.

Mr. Alan Jenner, LL.B. (Hons.) has been appointed assistant solicitor to the city of Newcastle-upon-Tyne. He was formerly assistant solicitor with Messrs. Jos. Hetherington and Son, of Wigton, Cumberland. Mr. Jenner was articled to Mr. Edwin Andrews, solicitor, of Newcastle-upon-Tyne and was admitted in July, 1950. Mr. Jenner succeeds Mr. Ian Todd, LL.B. Mr. Todd was articled to Mr. H. B. Portnell, solicitor of Hexham and was admitted in October, 1953.

Mr. K. J. Dennis has been appointed first assistant to the clerk to the county borough of Stockport justices. Mr. Dennis has been for the last five years an assistant to the clerk to the justices for the petty sessional division of Brentford, Middx., and has previous experience with the clerk to the justices at Hailsham, Sussex, and in the Spelthorne petty sessional division of Middlesex. Mr. Dennis is married and has two daughters, and during the last war he was a pilot in the R.A.F. He takes up his new duties on September 1, next. His appointment follows the appointment of Mr. F. K. Newton as clerk, and of Mr. A. B. Walker as deputy clerk, to the Stockport county borough justices, consequent upon the retirement of Mr. J. Lloyd on August 31 next, *see* our issue of July 21, last.

Chief Superintendent Eric Vaughan Staines, Commandant of No. 3 District Training School, Pannal Ash, Harrogate, has been selected for appointment as chief constable of Derby, He will succeed Colonel Horatio Rawlings who retires on October 10, *see* our issue of May 19, last. Chief superintendent Staines was formerly second-in-command of B. Division, Leeds city police force. From 1928 to 1933, Mr. Staines was in the Merchant Navy. In 1933, he joined the Leeds city police. He was seconded to the Home Office during the Second World War. He returned to Leeds in April, 1945, and was transferred to the C.I.D. In 1948, he was promoted to detective inspector and remained with the C.I.D. until 1951, when he became director of studies at the Police College at Ryton-on-Dunsmore, Warwickshire. He again returned to Leeds, in September, 1954, taking up his appointment at Harrogate Training College in September last year.

Mr. H. E. Cooper, chief clerk to Warrington, Lancs., county court since 1949, has been appointed chief clerk to Birkenhead, Cheshire, county court, in succession to Mr. F. Coulthwaite, who was chief clerk from 1943 until his recent death.

Mr. Norman Charles Henry Line is to be assistant city treasurer (accounting) to Liverpool corporation, in succession to Mr. Lawrence

Walter Gittins, who has retired after 43 years' service. Mr. Line has worked in the city treasurer's department since leaving school 25 years ago.

RETIREMENTS

Mr. G. J. Seeley, D.C.M., deputy clerk to Orpington, Kent, urban district council for 34 years, has retired.

OBITUARIES

Mr. William George Futcher, clerk to Northfleet, Kent, urban district council, has died. Mr. Futcher, who was 49, has worked for the council for 27 years and had been clerk for 15 years.

Mr. John William Fairbrother, former superintendent of Bicester, Oxon, constabulary, has died at the age of 74. He came to Bicester as superintendent in 1923 and retired in 1940, after more than 37 years' service in the police force.

STRIKING EXAMPLES

The long drawn-out strike in the motor-car industry is a symptom of an unstable economy. History repeats itself, even in this modern world of full employment. The resistance to what is called "automation" must have reminded many people of the disturbances during the Industrial Revolution, when the Luddites destroyed the machines they blamed for unemployment and "short time"; although their fears proved groundless in the long run, it is possible to understand the anxieties aroused by a short-term view. Today the background has completely changed; in place of too many workers chasing too few jobs, the excess of demand over supply in the labour market has produced the spectacle of too much money chasing too few goods. The dogmatic pronouncements of economists and politicians continue to foretell prosperity and leisure just round the corner; but their beatific visions are as elusive under the modern conditions of the Welfare State as in the bad old times.

The strike weapon is of ancient origin. It was employed on several occasions in the early days of the Roman Republic, when the Plebeians tired of their *rôle* as hewers of wood and drawers of water for their Patrician fellow-citizens, and withdrew in a body to the Sacred Mount, leaving their masters to fend for themselves as best they could. These secessions won them many political and economic privileges; but their movement was not without its martyrs. Manlius, a national hero who had saved the besieged Capitol from destruction, gave the popular movement his sympathy and support; the enraged Patricians accused him of seditious conspiracy, and his fine war record did not save him from the penalty reserved for traitors—to be hurled to death from the Tarpeian Rock. Summary punishments of that kind, for such an offence, are unthinkable today; but the British Trade Union Movement passed through a period when strike activities were regarded as a criminal conspiracy and visited with savage retribution. The present privileged position of the Trades Union has not been attained without much political controversy—most of it, fortunately, bloodless; but the collective bargaining power of the workers seems to have been firmly and permanently established.

Passive resistance as a means of redressing wrongs is a method which the Christian ethic shares with the Oriental religions of the Hindus and the Buddhists. In the West it has been seldom used in historical times; in Asia, and particularly among the peoples of India, it is a traditional weapon. The late Mahatma Gandhi inculcated its value, among the millions who followed him, by precept and example, and *satyagraha* has proved its effectiveness on numerous occasions in recent years. It is no exaggeration to say that India owes her independence to the tremendous influence that Gandhi was able to exercise upon peoples predisposed by their religious teachings to the cult of *Ahimsa*—"non-violence"—as an effective substitute for force. It has yet to be seen what weight those teachings may carry in the settlement of international disputes.

The effectiveness of such methods being admitted, it is permissible to recall that their employment has not invariably been confined to communal ends. The classic example of a sit-down strike for personal reasons is described in the First Book of *The Iliad*. Achilles, the bravest and most competent general among the Greek forces before Troy, had been allotted (as a token of appreciation of his martial services) the maiden Briseïs who had been captured, with others, during the sack of a neighbouring town. The Commander-in-Chief, Agamemnon, had seized as his favourite another young woman who, unfortunately, turned out to be the daughter of Chryses, Priest of Apollo. The god, enraged at the dishonour offered to his votary, sent a plague among the Grecian hosts, and made it clear that he would be appeased only by the surrender of the maiden in question. At the Council that ensued Agamemnon tried to bluster his way out of the *impasse*, but found himself in a minority of one. Taking strong exception to Achilles' remarks about the impropriety of his behaviour, Agamemnon reluctantly parted with the girl but insisted on saving face by taking Briseïs as a substitute. Achilles thereupon withdrew, with his Myrmidons, from the battle and sulked in his tent, refusing all inducements to return to active service until the slaying of his friend Patroclus aroused him to fresh ardour.

Two recent episodes provide, *mutatis mutandis*, a modern parallel. In a Yorkshire colliery the enforcement of a new shift-system has resulted in a strike of 260 pit-lads. Their complaint is not against the level of wages or the length of working hours, but arises from the fact that the time-table leaves them no opportunity for courting. Working the shift from 2 *p.m.* to 10 *p.m.* deprives them of the company of their girl friends during those hours, between twilight and nightfall, which are traditionally reserved for tender dalliance. Operating the haulage lines is an unsatisfactory substitute for roaming in the gloaming with their lassies by their side, and the pithead environment is not conducive to romantic dreams. Whether the strike has received the blessing of the Union does not appear; but the conflicting claims of Vulcan and Venus can be reconciled only by another kind of union like that which once set all Olympus by the ears.

The second episode is an illustration of *satyagraha* in the unpromising surroundings of Kingston-upon-Hull. A young man has been fined and bound over to keep the peace as a result of his passive protest against being jilted by his *fiancée*. Frustrated by her refusal to see him again, he proceeded to her house and lay on the ground in her front garden "as a gesture of his love." He remained there, prostrate, for several hours; but the efficacy of his protest was somewhat diminished by the fact that the young lady was absent from home. Instead of becoming a doormat for her daintily-shod feet, he found himself surrounded by the boots of the police; and his unconventional method of paying his court led to nothing more romantic than paying *in* court. Nevertheless, the story is interesting as an original gesture in persistent devotion, and it is to be hoped that this love affair may not have been so mangled by the juggernaut of the law as to prove beyond repair.

A.L.P.

NOTICE

The next court of quarter sessions for the city of Coventry will be held on Monday, August 13, 1956, at the County Hall, Coventry, commencing at 11 *a.m.*

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Education—*Part-time technical instructors—Termination of employment.*

I should be grateful for your comments as to the legal validity of the system in force in this county in connexion with the appointment of part-time staff at a technical college. I enclose herewith the three forms used. If the candidate is willing to accept the appointment, he signs and returns the green copy.

This states *inter alia* that no notice is necessary to terminate appointments. It is felt that this is reasonable in the circumstances of the employment, but I shall be glad to have your opinion.

CACAM.

Answer.

We suppose it to be the invariable practice for ordinary full-time teachers to hold contracts entitling them to a period of notice to terminate, though there does not seem to be a statutory requirement in this sense. Parliament has, however, in s. 121 (2) of the Local Government Act, 1933, recognized that a right to dismiss local government officials at pleasure can still exist. It seems to follow that it is not necessarily against the public interest for parties to agree to confer this right on the employer.

So long, therefore, as the teacher fully understands the contract, there seems no legal objection.

On merits, apart from pure law, we should have thought it reasonable to give notice, if classes were being discontinued for the reasons given, or to give some compensation in lieu of notice where continuance of the class even for a short period was not economic.

2.—Food and Drugs—*Prosecution—Defendant charges another person—Procedure—Food and Drugs Act*, 1955, *ss.* 2 *and* 113.

A has been summoned for selling food not of the substance demanded by the purchaser, in that it contained a foreign body contrary to s. 2 of the Food and Drugs Act, 1955. A has summoned B under s. 113 (1) of the Act, alleging that the contravention was due to B's act or default and that he, A had used all due diligence, etc.

After discussion between A's solicitor and B's solicitor, both informed the prosecution that their clients "were prepared to plead guilty to their respective summonses," and that so far as they were concerned, no witnesses need be called but that A would ask for an acquittal under s. 113 (1). The prosecution accept A's contention that the contravention of the Act was due to B's act or default and that A had used all due diligence. The prosecution were unable to use s. 113 (3) in this case, as at the time of instituting the proceedings, there was a dispute as to whether the food had, in fact, been manufactured by B or by some other person.

The magistrates' clerk contends that A must plead not guilty if he wishes to be acquitted under s. 113, on the ground that the court cannot acquit a person who has once pleaded guilty. He also contends that as the section uses the words, "if after the contravention has been *proved* the original defendant *proves*, etc." the prosecution must in any event call evidence on oath to prove the contravention and that A must also call evidence to prove the act or default of B and his own due diligence.

Your opinion is, therefore, sought on the following points:

1. Can A plead guilty and then ask to be acquitted under s. 113 (1)?

2. If the answer to 1 is "Yes" must the prosecution still call evidence on oath or is the plea sufficient?

3. If you think A must plead not guilty, could he then inform the court that he admits that a contravention of the Act has taken place and thereby dispense with the calling of prosecution witnesses?

4. Must A call evidence to prove the cross summons or can B's pleas be accepted with the agreement of the prosecution?

THE THIRD MAN.

Answer.

We dealt with the procedure in this type of three party trial in an article at 118 J.P.N. 497, and we think the procedure of joint trial described is appropriate in the present case.

1. In our opinion, no. Pleading guilty is admitting having committed the offence, which is not the same as admitting that someone has committed the offence. Evidently A does not admit being the offender.

2. Does not arise.

3. In our opinion, no. An admission by A will not be evidence against B. We think the contravention of s. 2 must be proved.

4. If A is to be acquitted he must call evidence and prove what is required of him under s. 11. As B pleads guilty no further evidence need be called.

3.—Landlord and Tenant—*Rent Restrictions Act*, 1920—*Definition of tenant.*

A was the statutory tenant of a controlled house in which he lived with his wife and adult daughter. A died some weeks ago, and later in the day of his death his wife also died. I shall be glad of your advice as to whether this is a case in which the adult daughter would be entitled to retain possession of the house by virtue of s. 12 (1) (*g*) of the Act of 1920.

A.R.S.

Answer.

The rule that the law takes no account of fractions of a day is not absolute: 32 *Halsbury* 148 gives examples in para. 218 where the actual order of events may be proved. In the case before us, the tenant did leave a widow (albeit for a few hours only) and therefore his daughter does not fall within the definition.

4.—Landlord and Tenant—*Restriction of rent—Housing (Rural Workers) Act*, 1926—*Housing Repairs and Rents Act*, 1954.

I have received an inquiry, whether a repairs increase is payable under the provisions of the Housing Repairs and Rents Act, 1954, when the repairs required to qualify for such an increase have been carried out to a house which was reconstructed with the assistance of a grant paid under a scheme made by the council under the Housing (Rural Workers) Act, 1926. The conditions stipulated when the grant was made, including one fixing the maximum rent, are still in force. Section 23 (1) of the Housing Repairs and Rents Act, 1954, which relates to a repairs increase, refers to "a dwelling which is let under a controlled tenancy or occupied by a statutory tenant." Having regard to the definitions in s. 49 of the Act, it appears that a repairs increase is not payable in this case, but I would appreciate your observations on the matter.

PYLAND.

Answer.

The limitation of rent under the Act of 1926 provides a maximum rent but does not exclude the house from the Rent Acts; *see Blackmill, Ltd.* v. *Straker* [1949] 2 All E.R. 919; 114 J.P. 14. Section 23 of the Act of 1954 will, therefore, apply because the Act of 1926 is not excluded by s. 23 (3) of the Act of 1954, as are the Acts of 1949 and 1952 providing for maximum rents. An increase may therefore be made, but not so as to bring the total rent above the rent limited under the Act of 1926.

5.—Licensing—"*Supper-hour extension*"—*Closing of bar.*

We act for the licensee of a residential hotel who is proposing to make an application to the licensing justices under s. 104 of the Licensing Act, 1953, for a "supper licence." The problem upon which we should like to have your guidance is whether his proposal for dealing with the service of drinks during the extension period (if granted) does or does not constitute closing of the bar.

The position is this; the licensee has a room adjoining his present bar which he proposes to use as a quick-service grill-room for the provision of "substantial refreshment." There will be a bar counter in this room and during the extension our client proposes to close the bar counter in question by means either of a shutter or iron grill. He will, however, find it necessary to get into the bar in order to arrange for the service of drinks during the supper licence period and to do this he intends to construct an opening in the side of the bar counter (which will itself be closed by the means indicated above) to enable the waiter or waitress in the grill-room to go into the bar counter with a tray and fetch drinks and bring them out again. The opening itself will have to be in the side of the bar counter, so that there is no other means of access to the bar except by this opening. Doubt arises in our mind whether a bar to which access was obtainable by such a means (but no other means) would be "closed" to comply with para. (*c*) of subs. (4) of s. 104, and it is on this point that we should like to have your guidance.

We hope that we have made the position clear. In considering your reply, would you please let us know whether you think the position would be any different if:

(*a*) The proposed entrance into the bar at the side of the bar counter consisted of a solid doorway in one piece to its full height.

(*b*) The proposed entrance was by way of a half-door with a hinged flap on the level of the bar counter and a shutter or grill separate to the main shutter or grill to close the necessary segment of the bar counter above the door when no ingress or egress was required, or

(*c*) If the proposed entrance to the bar was by means of a double doorway of the "stable" type which could be made into one doorway during the supper licence period and at times when no access to the bar was needed, and the top part of which could be opened during periods when the bar was opening during the normal licensing hours.

ONNOM.

Answer.

The requirement of s. 104 (4) (*c*) of the Licensing Act, 1953, that any bar in the premises shall be closed during the "supper-hour extension" to permitted hours authorized by the section, is usually construed as meaning that the bar shall be closed as a place of sale or supply of intoxicating liquor, not that it shall be closed as a place of storage from which there may be appropriated from bulk the quantity of intoxicating liquor which is sold or supplied for consumption at a meal in a place removed from the bar.

In our opinion, our correspondent's major suggestion will satisfy the law, and, in our opinion, the position will be no different if one of the minor suggestions is adopted.

6.—Magistrates—*Practice and procedure—Civil debt—Committal order made—Subsequent discovery that judgment summons not properly served—Procedure thereafter.*

A judgment summons was issued by my court against one A in respect of a civil debt. At the hearing of the judgment summons the defendant did not appear and in his absence and after means had been proved the court committed him in default of payment and suspended the committal so long as 5*s*. each week were paid. The defendant made default in payment of the weekly sum ordered to be paid and before the warrant of commitment was issued it was discovered that service of the judgment summons was bad, it not having been served in accordance with r. 48 of the Magistrates' Courts Rules, 1952. The defendant proposes to take no steps to have the commitment set aside but in view of the recent decision in *O'Connor* v. *Isaacs and Others* [1956] 1 All E.R. 513, it is my opinion that it is not correct for the commitment to be issued.

Is it possible for the justices to apply to the High Court for an order of *certiorari* against themselves? Failing this, what steps do you suggest may properly be taken to enforce payment? I am inclined to the view that as the magistrates had no jurisdiction to proceed with the judgment summons then any order that they purported to make would be a nullity and that there could be no objection to the justices issuing a fresh judgment summons. TOOLEY.

Answer.

We agree that it would be wrong for the justices to enforce by committal an order which they now know was made without jurisdiction, but we do not think that they can treat their own order as a nullity until it has been set aside by the High Court.

We think, therefore, that it must be left to the complainant in the proceedings to take steps to get the committal order quashed so that a fresh judgment summons can be issued.

7.—Road Traffic Acts—*Notice of intended prosecution—Defendant unconscious for* 21 *days after accident—Service of notice on him thereafter—Validity.*

A has been charged before the court for driving without due care, and alternatively for driving without reasonable consideration. A pleaded "not guilty", and after counsel on his behalf had closed his case, and upon the magistrates retiring, counsel ascertained that through a misunderstanding of the answers given to him by the prosecution to questions which he put as to whether the notice under s. 21 had been properly served, he learned for the first time that the notice had been served outside the statutory period of 14 days. Counsel asked the clerk to inform the magistrates in the retiring room that he wished to make an application to re-open the case. The magistrates returned to the court and heard the application in which counsel alleged that he had been misled by the police when he had questioned them prior to the court hearing that day with regard to the service of the notice, and that in law the notice had not been properly served.

As a result of an accident out of which the proceedings arose, A had become unconscious, and had remained in that state for 21 days. The police had inquired each day to ascertain whether or not he had recovered consciousness, and on the same day that he did so the notice was served by the police by attending personally upon A at the hospital.

I shall be glad if you will kindly advise:

(*a*) If, in view of the fact that the police served the notice upon A personally as soon as it was possible for him to understand it, that would be effective service of the notice within s. 21;

(*b*) The police could have served the notice by registered post at A's usual home address, or at the hospital. Does failure to do either within 14 days in this case render it inadvisable for the magistrates to convict, having regard to s. 21? J. UTILE.

Answer.

(*a*) We think not, having regard to the judgment of Lord Goddard, C.J., in *Sandland* v. *Neale* [1955] 3 All E.R. 571; 119 J.P. 583, at p. 585—note the sentence "compliance with the Act must, however, still be made."

(*b*) We think the court cannot convict.